

**Remarks**

The Office Action mailed October 07, 2004 has been carefully reviewed and the foregoing amendment has been made as a consequence thereof.

Claims 1, 3-18, and 20-21 are now pending in this application. Claims 1 and 3-11 stand rejected. Claims 12-18 and 20-21 are allowed. Claims 2 and 19 have been canceled.

The rejection of Claims 1 and 3-8 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention is respectfully traversed. Specifically, Applicant has amended Claim 1 to recite "said system." Claims 3-8 depend from Claim 1. For the reasons set forth above, Applicant respectfully requests that the Section 112 rejections of Claims 1 and 3-8 be withdrawn.

The rejection of Claims 1, 3-7 and 9-11 under 35 U.S.C. § 102(b) as being anticipated by Falk (U.S. Pat. No. 4,735,470) is respectfully traversed.

Falk describes a combination slidable storage assembly (30) disposed beneath at least one shelf assembly (20). Each shelf includes cantilevered support brackets (22). A pair of transverse bars (36) are affixed at each end to a corresponding portion of the support brackets. A groove (44) extends along a runner (42) and a front end of the groove includes an integral vertical projection (45). The projection engages with stop members (51) on flanges (49). Notably, Falk does not describe nor suggest a plurality of gussets and a gusset tab extending upwardly from each of the gussets.

Claim 1 recites a system for limiting outward movement of a slide-out shelf, wherein the shelf includes at least one stop tab, the system including "a plurality of side supports configured to support the shelf, each said side support comprises a ledge comprising a clearance portion, the clearance portion comprising a horizontal aperture extending through said ledge...a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf...a

plurality of gussets extending inwardly from each of said side supports...a gusset tab extending upwardly from each of said gussets and aligned substantially vertically below said aperture of said clearance portion, said gusset tab configured to contact the stop tab of the shelf thereby blocking further forward movement of the shelf.”

Falk does not describe nor suggest a system for limiting outward movement of a slide-out shelf as recited in Claim 1. Specifically, Falk does not describe nor suggest a side support including a ledge having a clearance portion which includes a horizontal aperture extending through said ledge. Moreover, Falk does not describe nor suggest a gusset tab extending upwardly from a gusset and aligned substantially vertically below the horizontal aperture of the clearance portion. Rather, in contrast to the present invention, Falk describes a groove in which a shelf slides and an integral vertical projection protruding in the groove at its front end. Notably, Falk does not describe nor suggest a horizontal aperture extending through either of the lower or upper portions defining the groove. Accordingly, for at least the reasons set forth above, Claim 1 is respectfully submitted to be patentable over Falk.

Claims 3-7 depend, directly or indirectly, from the independent Claim 1. When the recitations of Claims 3-7 are considered in combination with the recitations of Claim 1, Applicant submits that dependent claims 3-7 likewise are patentable over Falk.

Claim 9 recites a method for assembling a shelf assembly including "providing a shelf including at least one forward tab and at least one rear tab extending outwardly from the shelf... providing at least one side support configured to support the shelf, the side supports include a ledge including at least one side support clearance defined through the ledge and sized to receive the forward tab, at least one gusset extending inwardly from each of the side supports, wherein the at least one gusset includes a gusset tab extending upwardly from the gusset and aligned substantially vertically below said at least one side support clearance, and at least one support member configured to rigidly connect the side supports and configured to contact the forward tab when the shelf is in a first extended position...slidably coupling the shelf to the side supports.”

Falk does not describe nor suggest a method for assembling a shelf assembly as recited in Claim 9. More specifically, Falk does not describe nor suggest providing a side support including a ledge having a clearance defined through the ledge. Moreover, Falk does not describe nor suggest providing a gusset including a gusset tab extending upwardly from the gusset and aligned substantially vertically below a corresponding side support clearance. Rather, in contrast to the present invention, Falk merely describes a vertical projection protruding in a groove defined in each spaced bracket. Notably, Falk does not describe nor suggest each bracket having a clearance defined through either of the lower and upper portions defining the groove. Accordingly, for at least the reasons set forth above, Claim 9 is respectfully submitted to be patentable over Falk.

Claims 10-11 depend, directly or indirectly, from independent Claim 9. When the recitations of Claims 10-11 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claims 10-11 likewise are patentable over Falk.

For the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1, 3-7, and 9-11 be withdrawn.

The rejection of Claim 8 under 35 U.S.C. § 103 as being unpatentable over Falk (U.S. Pat. No. 4,735,470) in view of Kolbe et al. ("Kolbe") (U.S. Pat. No. 5,340,209) is respectfully traversed.

Falk is described above. Kolbe describes a slide assembly (20) that includes a shelf structure (27) mounted on a pair of supports (23 and 24) in a refrigerated compartment (14). The shelf structure includes a shelf plate (33) that is encapsulated by a rim (34). A unitary latch member (44) interacts with the support (23) and the rim to facilitate shelf operation. During extension of the shelf, the latch engages a slot (66) in flange (40) of the rim. Notably, Kolbe does not describe a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending upwardly from each of the gussets and aligned substantially vertically below an aperture defined at a distal end of a side support.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by

combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Falk nor Kolbe considered alone or in combination, describe nor suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Falk with Kolbe, because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicant's own teaching. Rather, only the conclusory statement that "it would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized side supports shaped like the supports taught by Kolbe, on the invention taught by Falk, for the purpose of providing additional stability in the rear of the support" suggests combining the disclosures.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Since there is no teaching nor suggestion in the cited art for the

combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejection be withdrawn.

Further, and to the extent understood, neither Falk nor Kolbe, considered alone or in combination, describe nor suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 8 depends from independent Claim 1 which recites a system for limiting outward movement of a slide-out shelf, wherein the shelf includes at least one stop tab, the system including “a plurality of side supports configured to support the shelf, each said side support comprises a ledge comprising a clearance portion, the clearance portion comprising a horizontal aperture extending through said ledge...a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf...a plurality of gussets extending inwardly from each of said side supports...a gusset tab extending upwardly from each of said gussets and aligned substantially vertically below said aperture of said clearance portion, said gusset tab configured to contact the stop tab of the shelf thereby blocking further forward movement of the shelf.”

Neither Falk nor Kolbe et al., considered alone or in combination, describe nor suggest a system for limiting outward movement of a slide-out shelf as recited in Claim 1. Specifically, neither Falk nor Kolbe, considered alone or in combination, describe nor suggest a side support including a ledge having a clearance portion which includes a horizontal aperture extending through said ledge. Moreover, Falk does not describe nor suggest a gusset tab extending upwardly from a gusset and aligned substantially vertically below the horizontal aperture of the clearance portion. Rather, in contrast to the present invention, Falk describes a groove in which a shelf slides and an integral vertical projection protruding in the groove at its front end, and Kolbe merely describe a shelf structure including a shelf plate that is encapsulated by a rim, wherein a unitary latch member interacts with a support and the rim to facilitate shelf operation such that the latch engages a slot in the

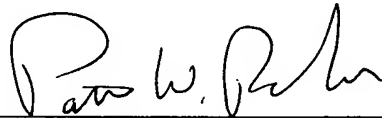
flange of the rim. Notably, neither Falk nor Kolbe, alone or in combination, describe nor suggest a horizontal aperture extending through either of the lower or upper portions defining the groove. Accordingly, for at least the reasons set forth above, Claim 1 is respectfully submitted to be patentable over Falk in view of Kolbe

Claim 8 depends from independent Claim 1. When the recitations of Claim 8 are considered in combination with the recitations of Claim 1, Applicant submits that depend Claim 8 likewise is patentable over Falk in view of Kolbe

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claim 8 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Patrick W. Rasche  
Registration No. 37,916  
ARMSTRONG TEASDALE LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102-2740  
(314) 621-5070